

**AUCTIONEER BOARD MEETING  
MINUTES  
OCTOBER 26, 2004**

**PRESENT:** Jay Clarke, Alan Hager, Richard Lust, Patrick McNamara, Mark Shain (via telephone), Marie Skic, and Carl Theorin

**STAFF PRESENT:** Jerry Lowrie, Bureau Director; Ruby Jefferson-Moore, Legal Counsel; Pat Schenck, Program Assistant; and Division of Enforcement Staff.

**GUESTS:** Barbara Hager  
Maxine O'Brien, Wisconsin Auctioneers Association  
Timothy Sweeney, Sweeney's Auction Associates Inc.

**CALL TO ORDER**

Richard Lust, Chair, called the meeting to order at 9:17 a.m. A quorum of seven members was present.

Timothy Sweeney introduced himself to the Board as the new member replacing Richard Lust on the Auctioneer Board.

**AGENDA**

**Amendments to Agenda:**

- Move Items 5. a. and 5. c. to Item 6. c. and 6. d.

**MOTION:** Patrick McNamara moved, seconded by Alan Hager, to adopt the agenda as amended. Motion carried unanimously.

**APPROVAL OF MINUTES JULY 27, 2004**

**MOTION:** Marie Skic moved, seconded by Patrick McNamara, to approve the minutes of July 27, 2004 as written. Motion carried unanimously.

**ADMINISTRATIVE REPORT  
JERRY LOWRIE, BUREAU DIRECTOR**

Mr. Lowrie thanked Mr. Lust for his years of service as a Board Member and for his contributions to the Department, the Board, and the citizens of the State of Wisconsin.

Mr. Lowrie reported on the Departments new codebook policy. The Department will no longer be printing hard copies of the statute and administrative codebooks for the professions.

Customers will have three choices for getting the statutes and administrative rules:

1. Print if off from the Department's web site,
2. purchase a hard print copy from Document Sales at a cost of \$15.00 for the smallest books, \$20.00 for the mid-sized books and \$25.00 for the larger books, or
3. purchase the entire codebook on CD from Document Sales for approximately \$6.50.

These prices include shipping and handling.

### **Board Roster**

The Board made changes to mailing and e-mail addresses.

### **2005 Meeting Dates**

Next Board meeting is January 25, 2005.

### **Summary Reports on Pending Court Cases, Disciplinary Cases and Administrative Rules and Press Releases**

Noted.

## **LEGISLATION AND ADMINISTRATIVE RULES**

### **RL 4.01 Criminal Background Checks – Emergency Rule**

Mr. Lowrie reported that the emergency rule is in response to federal public law which required authorization by state statute to continue the FBI's policy of honoring state requests for criminal background reports. The rule modifies the authority of the Department to conduct criminal background checks of applicants and requires rule making by the Department to conduct investigations whether an applicant for or holder of any credential issued by the Department has been charged with or convicted of a crime.

The emergency rule preserves the ability of the Department to continue its practice of conducting criminal background investigations of applicants and credential holders and eliminates the ability of the Department to exempt peace officers from the fingerprinting requirement for credentialing as a private detective or private security person.

As part of an investigation, the Department may require a credential holder to be photographed and fingerprinted. The Department may refer photographs and fingerprints

so obtained to the Department of Justice for internal analysis or submission of the fingerprint cards to the Federal Bureau of Investigation for the purpose of verifying the identity of the persons fingerprinted and obtaining records of their criminal arrests and convictions.

## **EDUCATION AND EXAMINATIONS**

### **Continuing Education Courses – Dr. Barbara Showers**

The Board discussed the required 12 hours of continuing education courses, course content, how many courses should be mandatory verses electives and reciprocity issues at length. The current rule is too specific and candidates are repeating courses.

Dr. Showers reported on the process of approving continuing education courses and providers and stated that if the courses were too broad it would be difficult to create a test-out examination.

Mr. Lowrie reported that Secretary Strong-Hill recommended that ethics be a mandatory course and the rest be elective.

### **Continuing Education Course Requirements Discussion**

Maxine O'Brien WAA joined the Board's discussion and suggested that two mandatory courses be required, one on Wisconsin law and a second on tax laws, ethics, records, or trust accounts with some flexibility, and that the Auctioneer Board approve all courses.

### **RL 128 Rule Change**

The Board discussed at length the number of hours and mandatory courses to require for continuing education.

**MOTION:** Carl Theorin moved, seconded by Marie Skic, to request a scope statement to repeal RL 128.03 (1) courses and to change RL 128.03 of the administrative rule to read the educational program should consist of 12 hours. The Department will determine the topics and hours of each course to be covered on a biennial basis at the advice of the Board. Motion carried unanimously.

### **Requiring Auction Company Representatives To Take Continuing Education**

The Board discussed requiring a representative from auction companies be required to take continuing education credits.

**MOTION:** Alan Hager moved, seconded by Marie Skic, to request that the Department initiate a statutory change to 480.08(6) to require that

an auction company representative take continuing education credits. Motion carried unanimously.

## **PRACTICE**

### **Review of Banks Acting as Auction Clerks**

The Board discussed banks acting as auction clerks. The Board may request a statutory change to require that persons acting as auction clerks be required to be registered as an auctioneer in Wisconsin. This item will be added to the next agenda for further discussion prior to making a motion for a statute change.

### **Status of Reciprocal Licenses**

Mr. Lowrie reported that Wisconsin has reciprocal agreements with Illinois, Texas, Kentucky, Arkansas, North Carolina, Tennessee, and Florida.

## **MISCELLANEOUS INFORMATION/CORRESPONDENCE**

None.

## **PRESENTATION OF PROPOSED STIPULATIONS BY DIVISION OF ENFORCEMENT OR ANY THAT MAY BE SUBMITTED AFTER MAILING OF AGENDA**

Angela L. Arrington, DOE Attorney, presented the proposed stipulation in the matter concerning Bruce J. Klein 01 AUC 021, 03 AUC 020.

## **NEW BUSINESS**

None.

## **VISITORS COMMENTS**

Maxine O'Brien, WAA approached the Chair, Richard Lust and presented him with a resolution from the Wisconsin Auctioneers Association. Mr. Lust was appointed to the Auctioneers Board on May 21, 1994 by then Tommy G. Thompson. Mr. Lust has generally served the State of Wisconsin, its citizens, and the auction industry for more than 10 years of his professional career. Mr. Lust unselfishly served as Chairman of the State Auction Advisory Board. The Wisconsin Auctioneers Association recognizes Mr. Lust with honor and appreciation as a dedicated member who has served above and beyond the call of duty. Ms. O'Brien expressed her personal appreciation to Mr. Lust.

Mr. Lust thanked the Board and the Department and stated that he will miss serving as a member on the Board.

## **CLOSED SESSION**

**MOTION:** Patrick McNamara moved, seconded by Jay Clarke, to convene the meeting in Closed Session pursuant to Sections 19.85(1)(a), (b), and (f), Wis. Stats., to consider the licensing or discipline of a person licensed by the Department or the investigation of charges against such a person. Specifically, the Board intends to deliberate on stipulations, administrative warnings, case closings, and monitoring cases. Motion carried by a roll call vote: Richard Lust - yes; Marie Skic - yes; Jay Clarke - yes; and Carl Theorin – yes; and Patrick McNamara – yes; Alan Hager – yes; Richard Lust – yes; and Mark Shain - yes. Motion carried unanimously.

Open Session recessed at 12:27 p.m.

The Board deliberated on the Monitoring Report, the Case Status Report and Case Closings, Proposed Stipulations, and Proposed Administrative Warnings.

## **RECONVENE TO OPEN SESSION**

**MOTION:** Carl Theorin moved, seconded by Alan Hager, to reconvene into Open Session at 12:47 p.m. Motion carried unanimously.

## **VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE**

### **MONITORING ISSUES**

None

### **CASE CLOSINGS 03 AUC 030**

**MOTION:** Jay Clarke moved, seconded by Mark Shain, to close case **03 AUC 030** for prosecutorial discretion (P2). Carl Theorin Case Advisor. Motion carried unanimously.

### **04 AUC 009**

**MOTION:** Patrick McNamara moved, seconded by Mark Shain, to refer case **04 AUC 009** back to the Division of Enforcement. Patrick McNamara Case Advisor. Motion carried unanimously.

## **ADMINISTRATIVE WARNINGS**

None.

### **STIPULATION**

#### **BRUCE J. KLEIN 01 AUC 021, 03 AUC 020**

**MOTION:** Alan Hager moved, seconded by Marie Skic, to adopt the Stipulation, Findings of Fact, Conclusions of Law and Order in the matter concerning **Bruce J. Klein 01 AUC 021, 03 AUC 020**. Motion carried unanimously.

**MOTION:** Marie Skic moved, seconded by Alan Hager, to request that the renewal office does not send Bruce J. Klein a renewal notice. Motion carried unanimously.

Mark Shain along with Marie Skic expressed their thanks to Mr. Lust for his efforts, hard work, and sacrifices made as Chairman of the Auctioneer Board.

### **ADJOURNMENT**

**MOTION:** Carl Theorin moved, seconded by Marie Skic, to adjourn the meeting at 12:55 p.m. Motion carried unanimously.

**Next Meeting January February 1, 2005**

#### **Suggested Agenda Items:**

- Election of Board Chair
- Banks Acting as Auction Clerks
- Store fronts – website auctions